IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL APPLICATION NO.664 OF 2005
(FOR LEAVE TO APPEAL)

The State of Maharashtra. ..Applicant.

v/s.

Ramchandra Ratan Mane & anr. .. Respondents.

Ms.Usha Kejariwal, Additional Prosecutor for the State.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 4th February, 2005

P.C.

Heard Ms.Usha Kejariwal, the learned APP and perused the impugned judgment.

2. The learned trial court found discrepancy in the prosecution case and consequently, acquitted the accused persons of the offence punishable under sections 326, 323, 504, 506 read with section 34 IPC.

3. It is a fact that the first information report dated 25.10.2000 was not brought on record.

4. The accused No.1 (first respondent herein) is a nephew of the complainant PW3. PW3 and his wife PW4

as well as Shankar Pandurang Pawar (PW5) were examined by the prosecution as eye witnesses. The learned trial Judge found inconsistencies in the deposition of PW3. The injuries allegedly inflicted by the accused No.1 on the person of PW3 did not get corroborated from the medical evidence. As a matter of fact, the doctor was not examined and the medical certificate was not the part of the papers of the chargesheet. It was sought to be tendered in the evidence at the time of recording of deposition of the investigating officer. Suffice to say that investigating officer could not prove the contents of the medical certificate. Even otherwise, the medical certificate does not support the case of PW3 about the injuries allegedly inflicted by the accused No.1.

5. The evidence of PW4 and PW5 is no better and suffers from various infirmities and is also inconsistent with the deposition of PW3.

6. All in all, we are satisfied that the view taken by the learned trial Judge is plausible and no interference is called for in the judgment of acquittal.

7. The matter is not fit for grant of leave.

Criminal application for grant of leave is rejected.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)